IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 185 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAY TEXTILES PVT.LTD. - Petitioner(s)
Versus
MAHENDRA SYNTX PVT.LTD. - Respondent(s)

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Appearance :
MR RS SANJANWALA for Petitioner(s) : 1,
MR UDAY M JOSHI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
Date : 12/04/2006

ORAL JUDGMENT

1.Mr. R.S. Sanjanwala, learned counsel for the petitioner and Mr. U.M. Joshi, learned counsel for the respondent.

2. The petitioner, M/s. Jay Textile Pvt. Ltd., has filed the present petition submitting inter alia, that the respondent company is indebted to the petitioner for a sum of Rs. 1,25,734/- with interest.

According to them, they had issued a statutory notice to the respondent company on 16th June, 2004, which was duly served upon the respondent and the respondent, vide their letter dated 1st July, 2004 informed the petitioner that the respondent company was virtually without any business, but, however, they would try to make payment.

3. Learned counsel for the petitioner submits that despite such assurance dated 1st July, 2004, up to the date of filing of this company petition, nothing was paid to the petitioner nor honest action was taken by the respondent company after the service of notice of the present company petition and nothing has been brought on the records after admission of the company petition or after advertisement of the hearing. The petitioner submits that the respondent company, in view of their own admission in their letter dated 1st July, 2004, deserves to be wound up.

4. Mr. Uday M. Joshi, learned counsel for the respondent company, though contested the petition, but was unable to give reply to any of the allegations made by the petitioner company.

5. Taking into consideration the totality of the circumstances and that the respondent company has made clear admission that the company is without any

business for last many years, I have reason to believe that the respondent company has lost its viability/reliability, it has become financially bankrupt and is unable to pay its debts. The petition is allowed. The respondent company is directed to be wound up.

6. The Official Liquidator associated with this Court is appointed as Official Liquidator with a direction that within a period of eight weeks from today, he shall take possession of the property (movable/immovable) belonging to the respondent company along with books of accounts, cash on hand and/or cash available in the accounts of the company. Within further period of two months from taking possession, the Official Liquidator shall submit his report in the Court. If required, he can take assistance f Official Valuer. He would also be entitled to take police assistance in case anybody creates any obstruction when he takes possession of the property.

(***R. S. Garg, J.***)

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